

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RICHARD A. ADAMS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE NO.
)	1:05-CV-3308-TWT
IBM CORP.)	
)	
Defendant.)	

JOINT PRELIMINARY REPORT AND DISCOVERY PLAN

1. Description Of Case:

(a) Describe briefly the nature of this action.

Plaintiff:

I am seeking redress for not receiving interest on \$151,349.10 that IBM pension plan ("Plan") had under its control for 27 months after I retired. I am asking for damages more than \$15,000.00.

Defendant:

Plaintiff alleges various claims arising out of a pension plan. These claims arise under the Employment Retirement Income Security Act of 1974, 29 USC § 1001-1461. Plaintiff alleges in his Complaint that he seeks damages of \$15,000.00.

(b) Summarize, in the space provided below, the facts of this

case. The summary should not be argumentative nor recite evidence.

Plaintiff:

I did not receive interest on \$151,349.10 that the “Plan” had control over from June 1, 2003 until about September 15, 2005.

Defendant:

Plaintiff alleges he did not receive interest on his pension plan. Defendant asserts that Plaintiff received all monies to which he was entitled under his pension plan.

(c) The legal issues to be tried are as follows:

By Plaintiff and Defendant:

Whether Plaintiff received all monies to which he was entitled under his pension plan up to \$15,000.00

(d) The cases listed below (include both style and action number) are:

(1) Pending Related Cases:

None.

(2) Previously Adjudicated Related Cases:

None.

(2) This case is complex because it possesses one (1) or more of the features listed below (please check):

- _____ (1) Unusually large number of parties.
- _____ (2) Unusually large number of claims or defenses.
- _____ (3) Factual issues are exceptionally complex.
- _____ (4) Greater than normal volume of evidence.
- _____ (5) Extended discovery period is needed.
- _____ (6) Problems locating or preserving evidence.
- _____ (7) Pending parallel investigations or action by government.
- _____ (8) Multiple use of experts.
- _____ (9) Need for discovery outside United States boundaries.
- _____ (10) Existence of highly technical issues and proof.

3. Counsel:

The following individually-named attorneys are hereby designated as lead counsel for the parties:

Plaintiff Pro Se: Richard Adams

Defendant: Stephen X. Munger, Esq.

4. Jurisdiction:

Is there any question regarding this Court's jurisdiction?

☐ Yes ☒ No

If "yes," please attach a statement, not to exceed one (1) page, explaining the jurisdictional objection. When there are multiple claims, identify and discuss separately the claim(s) on which the objection is based. Each objection should be supported by authority.

5. Parties To This Action:

(a) The following persons are necessary parties who have not been joined:

None known at this time.

(b) The following persons are improperly joined as parties:

None known at this time.

(c) The names of the following parties are either inaccurately stated or necessary portions of their names are omitted:

None known at this time.

(d) The parties shall have a continuing duty to inform the Court

of any contentions regarding unnamed parties necessary to this action or any contentions regarding misjoinder of parties or errors in the statement of a party's name.

6. Amendments To The Pleadings:

Amended and supplemental pleadings must be filed in accordance with the time limitations and other provisions of Rule 15, Federal Rules of Civil Procedure. Further instructions regarding amendments are contained in LR 15.

(a) List separately any amendments to the pleadings which the parties anticipate will be necessary:

None known at this time.

(b) Amendments to the pleadings submitted LATER THAN THIRTY (30) DAYS after the preliminary planning report is filed, or should have been filed, will not be accepted for filing, unless otherwise permitted by law.

7. Filing Times For Motions:

All motions should be filed as soon as possible. The Local Rules set specific filing limits for some motions. These times are restated below.

All other motions must be filed **WITHIN THIRTY (30) DAYS** after the beginning of discovery unless the filing party has obtained prior permission of the Court to file later. Local Rule 7.1A(2).

(a) **Motions to Compel**: before the close of discovery or within the extension period allowed in some instances. Local Rules 37.1.

(b) **Summary Judgment Motions**: within twenty (20) days after the close of discovery, unless otherwise permitted by Court order. Local Rule 56.1.

(c) **Other Limited Motions**: refer to Local Rules 7.2, 7.2B, and 7.2E, respectively, regarding filing limitations for motions pending on removal, emergency motions and motions for reconsideration.

(d) **Motions Objecting to Expert Testimony**: **Daubert** motions with regard to expert testimony no later than date that the proposed pretrial order is submitted.

8. Initial Disclosures:

The parties are required to serve initial disclosures in accordance with Fed.R.Civ.P. 26. If any party objects that initial disclosures are not appropriate, state the party and the basis for the party's objection.

Neither party objects to the appropriateness of initial disclosures.

9. Request for Scheduling Conference:

Does any party request a scheduling conference with the Court? If so, please state the issues which could be addressed and the position of each party.

The parties do not request a scheduling conference at this time.

10. Discovery Period:

The discovery period commences thirty (30) days after the appearance of the first Defendant by answer to the complaint. As stated in Local Rule 26.2A, responses to initiated discovery must be completed before expiration of the assigned discovery period.

Cases in this Court are assigned to one of the following three (3) discovery tracks: (a) zero (0)-months discovery period; (b) four (4)-months discovery period; and (c) eight (8)-months discovery period. A chart showing the assignment of cases to a discovery track by filing category is contained in Appendix F. The track to which a particular case is assigned is also stamped on the complaint and service copies of the complaint at the time of filing.

Please state below the subjects on which discovery may be needed:

Whether Plaintiff received all monies to which he was entitled under his pension plan up to \$15,000.00.

If the parties anticipate that additional time beyond that allowed by the assigned discovery track will be needed to complete discovery, please state those reasons in detail below:

None known at this time.

11. Discovery Limitation:

What changes should be made in the limitations on discovery imposed under the Federal Rules of Civil Procedure or Local Rules of this Court, and what other limitations should be imposed.

None known at this time.

12. Other Orders:

What other orders do the parties think that the Court should enter under Rule 26(c) or under Rule 16(b) and (c)?

None known at this time.

13. Settlement Potential:

(a) Lead counsel for the parties certify by their signatures below that they held an early planning conference March 15, 2006, and they

participated in settlement discussions, as required by LR 16.1. Other persons who participated in the settlement discussions are listed according to party.

For Plaintiff: **Pro Se (signature):** s/Richard Adams

Other Participants: None.

For Defendant: **Lead Counsel (signature):** s/Stephen X. Munger

Other Participants: Owen T. Hill, Esq.

(b) All parties were promptly informed of all offers of settlement and following discussion by all counsel, it appears that there is now:

_____ A possibility of settlement before discovery;

 X A possibility of settlement after discovery;

_____ A possibility of settlement, but a conference with the Judge is needed.

_____ No possibility of settlement.

(c) Counsel (____) do or (X) do not intend to hold additional settlement conferences among themselves prior to the close of discovery. The proposed date of the next settlement conference is _____, 20____.

(d) The following specific problems have created a hindrance to settlement of this case:

None known at this time.

14. Trial By Magistrate Judge:

Note: Trial before a Magistrate Judge will be by jury trial if a party is otherwise entitled to a jury trial.

(a) The parties () do consent to having this case tried before a magistrate judge of this Court. A completed Consent to Jurisdiction by a United States Magistrate Judge form has been submitted to the Clerk of Court this day of , 20 .

(b) The parties (X) do not consent to having this case tried before a magistrate judge of this Court.

Completed form submitted this 22nd day of March, 2006.

s/Richard Adams

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s/Stephen X. Munger, Esq.

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SCHEDULING ORDER

Upon review of the information contained in the Joint Preliminary Report and Discovery Plan form completed and filed by the parties, the Court orders that the time limits for adding parties, amending the pleadings, filing motions, completing discovery and discussing settlement are as stated in the above-completed form, except as herein modified.

IT IS SO ORDERED, this ____ day of _____, 2006.

UNITED STATES DISTRICT JUDGE